



**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM**

सत्यमेव जयते

Present: Shri.V.Vijaya Kumar, B.Sc., LLM, Presiding Officer.

(Wednesday the 13<sup>th</sup> day of January, 2021)

**Appeal No.163/2018**

(Old No. A/KL-105/2016)

Appellant

M/s. Al- Ameen Public School  
Edappally  
Kochi - 682024

By Adv. A.A. Muhammed Nazir

Respondent

The Assistant PF Commissioner  
EPFO, Sub Regional Office,  
Kaloor  
Kochi- 682017

By Adv. S. Prasanth

This case coming up for hearing on 13/01/2021 and the same day this Tribunal-cum-Labour Court passed the following:

**ORDER**

Present appeal is filed from KR/KCH/INQUIRY/12114/2016/5016 dt. 08/07/2016 assessing dues U/s 7A of EPF & MP Act,1952 (hereinafter referred to as 'the Act')

in respect of one employee for the period from 07/2002 to 10/2010. The total dues assessed is Rs. 1,11,151/-.

2. The appellant is an establishment covered under the provisions of the Act. Smt. Shameena Kassim filed a complaint before the respondent authorities alleging that she was not extended the benefit of provident fund. The respondent initiated an enquiry U/s 7A of the Act. A representative of the appellant attended the enquiry and produced all the records for the period from 02/2002 to 03/2015. On the request of representative of the appellant the respondent provided copies of the documents produced by Smt. Shameena Kassim. An Enforcement Officer was deputed to the appellant establishment to inspect the records on the basis of the complaint of Smt. Shameena Kassim. Without affording sufficient opportunity and on the basis of the report of the Enforcement Officer and an experience certificate produced by Smt. Shameena Kassim the respondent issued the impugned orders. The respondent ought to have relied on the documents produced by the appellant instead of the experience certificate produced by the complainant. The appointment order dt. 01/11/2010, attendance register acquittance roll

and Balance Sheet for the period for 02/2002 to 03/2015 produced by the appellant would go to show that the complainant was employed only for 2010. The appellant informed the respondent that the experience certificate was issued to the complainant on her request for getting better prospects and employment elsewhere.

3. Respondent filed counter denying the above allegations. A complaint was received from Smt. Shameena Kassim an ex-employee of the establishment having provident fund account number KR/KCH/12114/223 stating that she worked in the establishment from 28/07/2002 to 30/05/2015 as a music teacher but she was enrolled to provident fund only in 2010 after a gap of 08 years. The complainant also submitted a letter dt. 07/07/2015 releasing her gratuity, experience certificate dt. 07/07/2015 and a copy of the member pass book reflecting her date of joining as 01/11/2010. A copy of the experience certificate dt. 07/07/2015 is produced and marked as Exbt R1. The appellant was summoned U/s 7A with a direction to produce necessary records from 07/2002 to 05/2015. A representative of the appellant attended the hearing. The complainant Smt. Shameena

Kassim also attended the enquiry. The complainant produced experience certificate issued by the establishment in original. The complainant who attended hearing submitted that she worked in the appellant establishment from 28/07/2002 to 30/05/2015. The complainant also stated that though she was signing voucher for Rs.23,387/- she was paid only Rs.11,200/- as salary. The appellant also produced the acquittance roll from 03/2208 to 05/2015, reconciliation of income and expenditure from 2009-2010 to 2014-15. On the scrutiny of the records produced by the appellant, it is seen that the complainant name is not available in any of the records up to 10/2010. From 11/2010 onwards provident fund is deducted and paid. The appellant also produced an appointment order dt. 01/11/2010. The appellant through his affidavit dt. 21/06/2016 stated that the complainant was taking tuition in music for some students and outsiders on the basis of arrangements made by parents. The school management issued her experience certificate in order to help her but her service in the school started only w.e.f 01/11/2010. The respondent after considering all the contentions came to the conclusion that

the complainant was an employees of the school for the period from 07/2002. The respondent also look into account the fact that a senior Advocate and former Solicitor General of India who happened to be the Manager of the appellant will not issue any false certificate as claimed by the appellants. Further the school magazine produced by the complainant for the year 2014-15 contains of the photograph of the complainant with remarks “ Ten years of service, Shameena Kassim, Music department”. Considering all the evidence placed before the respondent authority, it was decided that the complainant is entitled to be enrolled to provident fund from 07/2002. The respondent did not rely on the report of the Enforcement Officer as the same was based only on the records produced by the management, and he failed to meet the complainant and verify the records available with her.

4. The issue under dispute is regarding the due date of enrollment of Smt. Shameena Kassim who was a music teacher in the appellant school. According to the appellant, the complainant was taken into roles of the appellant establishment only w.e.f 01/11/2010. The

records produced by the management will substantiate the claim. According to complainant she worked in the school as a music teacher from 28/07/2002 to 30/05/2015. To substantiate her claim, she produced the experience certificate issued by the manager of the appellant school and also a copy of the school magazine wherein the photograph of the complainant is available with the caption that she was a music teacher of the school for the last ten years. The respondent authority after examining all the records placed before him in the 7A enquiry, came to the conclusion that the complainant was working with the appellant establishment from 07/2002 to 03/2015. The genuineness of the experience certificate dt. 07/07/2015 is not denied by the appellant. According to the appellant the certificate was issued on the request of the complainant to facilitate her to get better prospects elsewhere. However the certificate clearly states that “ Miss. Shameena Kassim was working as a Music Teacher in this school from 28/07/2002 to 31/03/2015 and 01/12/2012 to 31/03/2015 till her resignation”. The claim of the appellant that complainant was conducting music tuition to students on the basis of some arrangements

during the relevant period cannot be accepted. The appellant failed to discredit the evidence produced by the complainant before the 7A authority.

5. I am not inclined to interfere with the finding of fact by the respondent that the complainant was working in the appellant school from 28/07/2002. In view of the amendment to Para 26 of EPF Scheme in 1990, it is not relevant whether she was working as a temporary, casual or contract employee. The definition of an employee under the Act covers all such employment.

6. Considering all the facts, circumstances and pleadings, I am not inclined to interfere with the impugned order.

Hence the appeal is dismissed.

Sd/-

**(V. VIJAYA KUMAR)**  
Presiding Officer